



TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	10/786,995
		Filing Date	February 25, 2004
		First Named Inventor	Carl R. VanderSchuit
		Art Unit	2875
		Examiner Name	Jason Han
Total Number of Pages in This Submission		Attorney Docket Number	9053V-000008/US

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Preliminary Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) (1 sheet) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Substitute Declaration and Power of Attorney <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Comments on Statement for Reasons for Allowance Issue Fee Transmittal Check
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Anthony G. Fussner	Reg. No. 47,582
Signature			
Date	April 4, 2006		

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Anthony G. Fussner	Express Mail Label No.	EV 639015926 US
Signature		Date	April 4, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EV 639015926 US



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/786,995
Filing Date: February 25, 2004
Applicant: Carl R. VanderSchuit
Group Art Unit: 2875
Examiner: Jason Han
Title: THERAPEUTIC DEVICES AND METHODS FOR APPLYING
THERAPY
Attorney Docket: 9053V-000008US

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE IN OFFICE ACTION

This document amplifies Applicant's comments contained in the Amendment filed February 7, 2006 in response to the Office action mailed January 25, 2006 relating to the Examiner's reasons for allowance.

Reasons for allowance are only warranted in instances in which "the record of the prosecution as a whole does not make clear [the Examiner's] reasons for allowing a claim or claims." 37 C.F.R. § 1.104(e). In the present case, Applicant believes the record as a whole does make clear the reasons for allowance and therefore no statement by the Examiner is necessary or warranted. Furthermore, Applicant does not necessarily agree with each statement in the reasons for allowance. While Applicant believes the claims are allowable, Applicant does not acquiesce that patentability resides solely in the specific feature or combination of features identified, or that each feature or combination of features identified is required for patentability, or that equivalents of any specifically recited feature is outside the scope of the allowed claims.

EV 639015926 US

Claims 3 and 11

The Office Action concludes that Claims 3 and 11 are allowable because the art of record fails to teach or suggest the combination of a massager within a therapeutic device incorporating phototherapy and one of heat or cold therapy to a user's body.

Applicant respectfully submits that Claim 3 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A method of applying therapy with a therapeutic device, the therapeutic device including a massager, a container having a pocket on an outer surface of the container, a hot/cold gel hermetically sealed within the container, and a member removably positioned within the pocket, the member having at least one light source capable of emitting therapeutic light, the method comprising applying the therapeutic device to a user's body with the light source directed to emit therapeutic light generally toward the user's body for applying at least one of heat therapy, cold therapy, and therapeutic light to the user's body, and activating and applying the massager to the user's body.

Applicant respectfully submits that Claim 11 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket, a massager coupled to the container.

Claims 18, 21, 48, 50, and 53

The Office Action concludes that Claims 18, 21, 48, 50, and 53 are allowable because the art of record fails to teach or suggest the combination of a flexible switch member that connects a light source to a power source within a therapeutic device incorporating phototherapy and one of heat or cold therapy to a user's body.

Applicant respectfully submits that Claim 18 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, and a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket, wherein the container includes at least one externally flexible surface portion, and wherein the member includes a switching device that is positioned internally relative to the container's flexible surface portion when the member is positioned within the pocket such that movement of the container's flexible portion switchably connects the light source to a power source.

Applicant respectfully submits that Claim 21 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising at least one light source for emitting therapeutic light, a hot/cold gel pack, an adhesive bandage strip for attaching the device to a user's body with the light source directed to emit therapeutic light generally towards the user's body and with the hot/cold gel pack positioned to apply hot or cold therapy to the user's body, a relatively thin flexible substrate, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, wherein the at least one light source is surface mounted on the substrate, whereby the substrate and the hot/cold gel pack have sufficient flexibility for allowing the therapeutic device to be bent in conformance with a contoured portion of a user's body.

Applicant respectfully submits that Claim 48 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A method of applying therapy with a therapeutic device, the therapeutic device including a container having a pocket on an outer surface of the container, a hot/cold gel hermetically sealed within the container, and a member removably positioned within the pocket, the member having at least one light source capable of emitting therapeutic light, a relatively thin flexible substrate on which is surface mounted the light source, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, the method comprising applying the therapeutic device to a user's body with the light source directed to emit therapeutic light generally toward the user's body for applying at least one of heat therapy, cold therapy, and therapeutic light to the user's body, and activating the switching device to activate the light source to apply therapeutic light to the user's body.

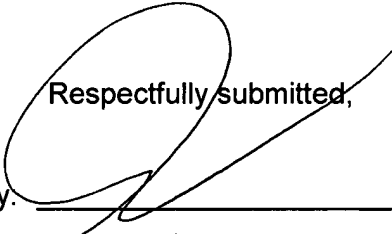
Applicant respectfully submits that Claim 50 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, and a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket, wherein the member comprises a relatively thin flexible substrate on which is surface mounted the light source, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source.

Applicant respectfully submits that Claim 53 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container having a pocket, at least a portion of the container integrally forming at least a portion of said pocket, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, a relatively thin flexible substrate removably positioned

within the pocket, at least one LED surface mounted on the substrate and capable of emitting therapeutic light, at least one power source supported by the substrate, at least one conductive lead surface mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, whereby the container and the substrate have sufficient flexibility for allowing the therapeutic device to be bent in conformance with a contoured portion of a user's body.

Respectfully submitted,
By. 
Anthony G. Fussner
Reg. No. 47,582

Dated: April 4, 2006

HARNESS, DICKEY & PIERCE, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, Missouri 63105
(314) 726-7500
AGF/dmkd